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Hon. Thomas Z. Zilly

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AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON
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10-CV-00380-LTR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BLUE NILE, INC., a Delaware corporation,

Plaintiff,

v.

IDEAL DIAMOND SOLUTIONS, INC.
d/b/a IDS, Inc., Verified Independent
Diamond Purchaser's Affiliation, and
VIDPA, a Delaware corporation; LARRY
CHASIN, an individual; et al.,

Defendants.

CASE NO. 2:10-cv-00380-TSZ

ANSWER

JURY DEMAND

Ideal Diamond Solutions, Inc. d/b/a IDS, Inc., Verified Independent Diamond Purchaser's Affiliation and VIDPA ("IDS"); Larry Chasin ("Chasin"); Zdeel's Diamond Gallery ("Zdeel"); Wells & Co. Fine Jewelers ("Wells"); R. Bruce Carson Jewelers ("Carson"); Frederic H. Rubel Jewelers ("Rubel"); Kleinhenz Jewelers ("Kleinhenz"); Mayfair Diamonds and Fine Jewelry ("Mayfair"); Moseillo Jewelers ("Mosiello"); Cirelli Jewelers ("Cirelli"); LV Jewelry ("LV"); Quattri's Bench Express ("Quattri"); Kilman Jewelers ("Kilman") and Diamondscape (collectively "Defendants"), on behalf of themselves appearing pro se, and for their Answer to

1 the Verified Complaint ("Complaint") of Plaintiff Blue Nile, Inc. ("Blue Nile") do hereby
2 declare and state as follows:

3 **I. INTRODUCTION**

- 4 1. Defendants deny the allegations contained in Paragraph 1 of the Complaint.
5 2. Defendants are without knowledge or information sufficient to form a belief as to the
6 truth of the allegations contained in Paragraph 2 of the Complaint; therefore, denied.
7 3. Defendants are without knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in Paragraph 3 of the Complaint; therefore, denied.
9 4. Defendants are without knowledge or information sufficient to form a belief as to the
10 truth of the allegations contained in Paragraph 4 of the Complaint; therefore, denied.
11 5. Defendants are without knowledge or information sufficient to form a belief as to the
12 truth of the allegations contained in Paragraph 5 of the Complaint; therefore, denied.
13 6. Defendants deny the allegations contained in Paragraph 6 of the Complaint.
14 7. Defendants deny the allegations contained in Paragraph 7 of the Complaint.

15 **II. PARTIES**

- 16 8. Defendants are without knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in Paragraph 8 of the Complaint; therefore, denied.
18 9. IDS admits the allegations contained in Paragraph 9 of the Complaint, but with a new
19 address of 320 7th Ave, #209, Brooklyn, NY 11215.
20 10. Chasin admits the allegations contained in Paragraph 10 of the Complaint.
21 11. Zdeel admits the allegations contained in Paragraph 11 of the Complaint.
22 12. Wells admits the allegations contained in Paragraph 12 of the Complaint.
23 13. Carson admits the allegations contained in Paragraph 13 of the Complaint.
24 14. Rubel admits the allegations contained in Paragraph 14 of the Complaint.
25 15. Kleinhenz admits the allegations contained in Paragraph 15 of the Complaint.
26 16. Mayfair admits the allegations contained in Paragraph 16 of the Complaint.
27 17. Moseillo admits the allegations contained in Paragraph 17 of the Complaint.
28 18. Cirelli admits the allegations contained in Paragraph 18 of the Complaint.
19. LV admits the allegations contained in Paragraph 19 of the Complaint.

- 1 20. Quattry admits the allegations contained in Paragraph 20 of the Complaint.
- 2 21. Kilman admits the allegations contained in Paragraph 21 of the Complaint.
- 3 22. Diamondscape admits the allegations contained in Paragraph 22 of the Complaint.
- 4 23. Defendants are without knowledge or information sufficient to form a belief as to the
- 5 truth of the allegations contained in Paragraph 23 of the Complaint; therefore, denied.
- 6 24. Paragraph 24 of the Complaint refers to a naming device employed by Blue Nile in
- 7 the Complaint. No response is required.
- 8 25. Defendants admit the allegations contained in Paragraph 25 of the Complaint.
- 9 26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.

10 III. JURISDICTION AND VENUE

- 11 27. Defendants admit the allegations contained in Paragraph 27 of the Complaint.
- 12 28. Defendants are without knowledge or information sufficient to form a belief as to the
- 13 truth of the allegations contained in Paragraph 28 of the Complaint; therefore, denied.
- 14 29. Defendants deny the allegations contained in Paragraph 29 of the Complaint.

15 IV. FACTS AND BACKGROUND

16 A. The Blue Nile Business and Website

- 17 30. Defendants are without knowledge or information sufficient to form a belief as to the
- 18 truth of the allegations contained in Paragraph 30 of the Complaint; therefore, denied.
- 19 31. Defendants are without knowledge or information sufficient to form a belief as to the
- 20 truth of the allegations contained in Paragraph 31 of the Complaint; therefore, denied.
- 21 32. Defendants are without knowledge or information sufficient to form a belief as to the
- 22 truth of the allegations contained in Paragraph 32 of the Complaint; therefore, denied.
- 23 33. Defendants are without knowledge or information sufficient to form a belief as to the
- 24 truth of the allegations contained in Paragraph 33 of the Complaint; therefore, denied.
- 25 34. Defendants are without knowledge or information sufficient to form a belief as to the
- 26 truth of the allegations contained in Paragraph 34 of the Complaint; therefore, denied.
- 27 1. Blue Nile's Text
- 28 35. Defendants are without knowledge or information sufficient to form a belief as to the
- truth of the allegations contained in Paragraph 35 of the Complaint; therefore, denied.

36. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint; therefore, denied.

37. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of the Complaint; therefore, denied.

2. Blue Nile's Photographs

38. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in Paragraph 39 of the Complaint.

40. Defendants deny the allegations contained in the first sentence of Paragraph 40 of the Complaint. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of Paragraph 40 of the Complaint; therefore, denied.

41. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint; therefore, denied.

2. Blue Nile's Diamond Search and Build Your Own Tools and Compilations

42. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42 of the Complaint; therefore, denied.

43. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the Complaint; therefore, denied.

44. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of the Complaint; therefore, denied.

45. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45 of the Complaint; therefore, denied.

46. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Complaint; therefore, denied.

47. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Complaint; therefore, denied.

48. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Complaint; therefore, denied.

49. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of the Complaint; therefore, denied.

50. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of the Complaint; therefore, denied.

B. Protection of Blue Nile's Intellectual Property

51. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of the Complaint; therefore, denied.

52. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of the Complaint; therefore, denied.

53. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of the Complaint; therefore, denied.

54. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of the Complaint; therefore, denied.

55. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Complaint; therefore, denied.

56. Defendants admit the allegations contained in Paragraph 56 of the Complaint.

57. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Complaint; therefore, denied.

58. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Complaint; therefore, denied.

C. Defendants are Willfully and Egregiously Infringing Blue Nile's Intellectual Property Rights

1. Defendants IDS and Chasin

59. IDS and Chasin deny the allegations contained in Paragraph 59 of the Complaint.

60. IDS and Chasin deny the allegations contained in Paragraph 60 of the Complaint.

61. IDS and Chasin deny the allegations contained in Paragraph 61 of the Complaint.

62. IDS and Chasin deny the allegations contained in Paragraph 62 of the Complaint.

63. IDS and Chasin deny the allegations contained in Paragraph 63 of the Complaint.

1 64. IDS and Chasin deny the allegations contained in Paragraph 64 of the Complaint.

2 65. IDS and Chasin admit the allegations contained in the first sentence of Paragraph 65
3 of the Complaint. IDS and Chasin deny the allegations contained in the second
4 sentence of Paragraph 65 of the Complaint.

5 **2. All Defendants and Their Infringing Acts**

6 66. Defendants deny the allegations contained in Paragraph 66 of the Complaint.

7 67. Defendants deny the allegations contained in Paragraph 67 of the Complaint.

8 68. Defendants deny the allegations contained in Paragraph 68 of the Complaint.

9 69. Defendants deny the allegations contained in Paragraph 69 of the Complaint.

10 70. Defendants admit the allegations contained in Paragraph 70 of the Complaint.

11 71. Defendants admit the allegations contained in Paragraph 71 of the Complaint.

12 72. Defendants deny the allegations contained in Paragraph 72 of the Complaint.

13 **V. CLAIMS**

14 **FIRST CAUSE OF ACTION**
15 **COPYRIGHT INFRINGEMENT**
16 **(DIRECT, VICARIOUS AND CONTRIBUTORY)**
17 **17 U.S.C. § 101 *et seq.***
18 **(AGAINST ALL DEFENDANTS)**

19 73. Defendants reallege and incorporate by reference their responses in Paragraphs 1
20 through 72 above as if fully set forth herein.

21 74. Defendants are without knowledge or information sufficient to form a belief as to the
22 truth of the allegations contained in Paragraph 74 of the Complaint; therefore, denied.

23 75. Defendants admit the allegations contained in Paragraph 75 of the Complaint.

24 76. Defendants deny the allegations contained in Paragraph 76 of the Complaint.

25 77. Defendants deny the allegations contained in Paragraph 77 of the Complaint.

26 78. Defendants admit the allegations contained in Paragraph 78 of the Complaint.

27 79. Defendants deny the allegations contained in Paragraph 79 of the Complaint.

28 80. Defendants deny the allegations contained in Paragraph 80 of the Complaint.

81. Defendants deny the allegations contained in Paragraph 81 of the Complaint.

1 82. The allegations contained in Paragraph 82 of the Complaint state a legal conclusion,
2 to which no response by Defendants is necessary.

3 83. Defendants deny the allegations contained in Paragraph 83 of the Complaint.

4 84. Defendants are without knowledge or information sufficient to form a belief as to the
5 truth of the allegations contained in Paragraph 84 of the Complaint; therefore, denied.

6 85. Defendants deny the allegations contained in Paragraph 85 of the Complaint.

7 86. Defendants are without knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in Paragraph 86 of the Complaint; therefore, denied.

9 **SECOND CAUSE OF ACTION**

10 **TRADEMARK—LANHAM ACT 15 U.S.C. § 1114 AND § 1125(A)**
11 **(AGAINST DEFENDANTS LARRY CHASIN AND IDEAL DIAMOND SOLUTIONS)**

12 87. Defendants reallege and incorporate by reference their responses in Paragraphs 1
13 through 86 above as if fully set forth herein.

14 88. Defendants are without knowledge or information sufficient to form a belief as to the
15 truth of the allegations contained in Paragraph 88 of the Complaint; thus, denied.

16 89. IDS and Chasin admit the allegations contained in the first sentence of Paragraph 89
17 of the Complaint since March 2008 IDS and Chasin deny the allegations in the
18 second sentence of Paragraph 89 of the Complaint. Remaining Defendants are
19 without knowledge or information sufficient to form a belief as to the truth of the
20 allegations contained in Paragraph 89 of the Complaint; thus, denied.

21 90. IDS and Chasin deny the allegations contained in Paragraph 90 of the Complaint.
22 Remaining Defendants are without knowledge or information sufficient to form a
23 belief as to the truth of the allegations contained in Paragraph 90 of the Complaint;
24 thus, denied.

25 91. IDS and Chasin deny the allegations contained in Paragraph 91 of the Complaint.
26 Remaining Defendants are without knowledge or information sufficient to form a
27 belief as to the truth of the allegations contained in Paragraph 91 of the Complaint;
28 thus, denied.

92. IDS and Chasin deny the allegations contained in Paragraph 92 of the Complaint.
Remaining Defendants are without knowledge or information sufficient to form a

1 belief as to the truth of the allegations contained in Paragraph 92 of the Complaint;
2 thus, denied.

3 93. IDS and Chasin deny the allegations contained in Paragraph 93 of the Complaint.
4 Remaining Defendants are without knowledge or information sufficient to form a
5 belief as to the truth of the allegations contained in Paragraph 93 of the Complaint;
6 thus, denied.

7 94. IDS and Chasin deny the allegations contained in Paragraph 94 of the Complaint.
8 Remaining Defendants are without knowledge or information sufficient to form a
9 belief as to the truth of the allegations contained in Paragraph 94 of the Complaint;
10 thus, denied.

11 95. IDS and Chasin are without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 95 of the Complaint thus, denied.
13 Remaining Defendants are without knowledge or information sufficient to form a
14 belief as to the truth of the allegations contained in Paragraph 95 of the Complaint;
15 thus, denied.

16 96. IDS and Chasin are without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 96 of the Complaint; thus, denied.
18 Remaining Defendants are without knowledge or information sufficient to form a
19 belief as to the truth of the allegations contained in Paragraph 96 of the Complaint;
20 thus, denied.

21 **THIRD CAUSE OF ACTION**
22 **VIOLATION OF THE ANTI-CYBERSQUATTING PROTECTION ACT**
23 **15. U.S.C. § 1125(d)**
(AGAINST DEFENDANTS LARRY CHASIN AND IDEAL DIAMOND SOLUTIONS)

24 97. Defendants reallege and incorporate by reference their responses in Paragraphs 1
25 through 96 above as if fully set forth herein.

26 98. IDS and Chasin are without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 98 of the Complaint; thus, denied.
28 Remaining Defendants are without knowledge or information sufficient to form a

1 belief as to the truth of the allegations contained in Paragraph 98 of the Complaint;
2 thus, denied.

3 99. IDS and Chasin are without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 99 of the Complaint; thus, denied.
5 Remaining Defendants are without knowledge or information sufficient to form a
6 belief as to the truth of the allegations contained in Paragraph 99 of the Complaint;
7 thus, denied.

8 100. IDS and Chasin admit the allegations contained in Paragraph 100 of the Complaint
9 but only to the extent that IDS has owned the domain names since March 2008.
10 Remaining Defendants are without knowledge or information sufficient to form a
11 belief as to the truth of the allegations contained in Paragraph 100 of the Complaint;
12 thus, denied.

13 101. IDS and Chasin admit the allegations contained in Paragraph 101 of the Complaint
14 since March 2008. Remaining Defendants are without knowledge or information
15 sufficient to form a belief as to the truth of the allegations contained in Paragraph 101
16 of the Complaint; thus, denied.

17 102. IDS and Chasin deny the allegations contained in Paragraph 102 of the Complaint.
18 Remaining Defendants are without knowledge or information sufficient to form a
19 belief as to the truth of the allegations contained in Paragraph 102 of the Complaint;
20 thus, denied.

21 103. IDS and Chasin deny the allegations contained in Paragraph 103 of the Complaint.
22 Remaining Defendants are without knowledge or information sufficient to form a
23 belief as to the truth of the allegations contained in Paragraph 103 of the Complaint;
24 thus, denied.

25 104. IDS and Chasin deny the allegations contained in Paragraph 104 of the Complaint.
26 Remaining Defendants are without knowledge or information sufficient to form a
27 belief as to the truth of the allegations contained in Paragraph 104 of the Complaint;
28 thus, denied.

1 105. IDS and Chasin deny the allegations contained in Paragraph 105 of the Complaint.
2 Remaining Defendants are without knowledge or information sufficient to form a
3 belief as to the truth of the allegations contained in Paragraph 105 of the Complaint;
4 thus, denied.

5 106. IDS and Chasin are without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 106 of the Complaint; thus, denied.
7 Remaining Defendants are without knowledge or information sufficient to form a
8 belief as to the truth of the allegations contained in Paragraph 106 of the Complaint;
9 thus, denied.

10 **FOURTH CAUSE OF ACTION**
11 **COMMON LAW UNFAIR COMPETITION**
12 **(AGAINST ALL DEFENDANTS)**

13 107. Defendants reallege and incorporate by reference their responses in Paragraphs 1
14 through 106 above as if fully set forth herein.

15 108. Defendants deny the allegations contained in Paragraph 108 of the Complaint.

16 109. Defendants are without knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in Paragraph 109 of the Complaint; thus, denied.

18 110. Defendants are without knowledge or information sufficient to form a belief as to the
19 truth of the allegations contained in Paragraph 110 of the Complaint; thus, denied.

20 **FIFTH CAUSE OF ACTION**
21 **CIVIL CONSPIRACY**
22 **(AGAINST ALL DEFENDANTS)**

23 111. Defendants reallege and incorporate by reference their responses in Paragraphs 1
24 through 110 above as if fully set forth herein.

25 112. Defendants deny denies the allegations contained in Paragraph 112 of the Complaint.

26 113. Defendants deny all conspiracy allegations contained in Paragraph 113 of the
27 Complaint. IDS admits that it has agreements to operate the all website identified in
28 this Complaint.

1 114. Defendants are without knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in Paragraph 114 of the Complaint; thus, denied.

3 **VI. AFFIRMATIVE DEFENSES**

4 115. Defendants do not infringe any of Blue Nile's registered copyrights.

5 116. Defendants have not intentionally induced, encouraged, caused or materially
6 contributed to infringement of any of Blue Nile's registered copyrights.

7 117. IDS and Chasin have not infringed Blue Nile's U.S. trademark Registration No.
8 2559555.

9 118. IDS and Chasin's operation of Internet websites at the domains www.blue-
10 jewelry.com and www.blue-jewelry.biz are not likely to cause confusion or mistake,
11 or to deceive as to the association, affiliation, connection endorsement and/or
12 approval by Blue Nile of IDS and Chasin's websites.

13 119. The domain names www.blue-jewelry.com and www.blue-jewelry.biz were not
14 intended to be and are not confusingly similar to Blue Nile's registered U.S.
15 trademark.

16 120. IDS and Chasin's registration of the domain names www.blue-jewelry.com and
17 www.blue-jewelry.biz does not violate the Anti-Cybersquatting Protection Act.

18 **VII. JURY DEMAND**

19 121. Pursuant to Federal Rule of Civil Procedure 38(b), Defendants demand a trial by jury
20 as to all issues so triable in this action.

21 **VIII. PRAYER FOR RELIEF**

22 WHEREFORE, Defendants. pray for relief as follows:

23 A. Entry of Final Judgment denying any relief to Blue Nile, Inc.;

24 B. Award of Defendants' costs of suit, including reasonable attorney's fees, pursuant to 15
25 U.S.C. § 1117(a)(3);

26 C. Award of prejudgment interest and post-judgment interest; and

27 D. Such other relief as the Court may deem just and proper.

28 DATED: May 24, 2010

By:



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Answering on behalf of all Defendants